

ATTACHMENT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)
)
This Document Relates to:) MDL No. 1:13-md-2419-RWZ
)
ALL ACTIONS)

PLAINTIFFS' STEERING COMMITTEE'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS SEEKING INFORMATION IN ORDER TO RESPOND
TO DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO COMPLY WITH TENN.
CODE ANN. § 29-26-121 [Docket No. 770]

The Plaintiffs' Steering Committee ("PSC"), pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure, propound the following interrogatories and requests for production of documents upon defendants Saint Thomas Outpatient Neurosurgical Center, LLC, Howell Allen Clinic A Professional Corporation, John W. Culclasure, M.D., Debra Schamberg, Specialty Surgery Center, Kenneth R. Lister, M.D. and Kenneth R. Lister, M.D., P.C. ("Tennessee Defendants" or "You"). Said interrogatories are to be answered fully and separately in writing and under oath and answers are to be served on Counsel for the PSC within thirty (30) days after service of same or at an earlier date as stipulated to or ordered by the Court, and the documents requested to be produced at the offices of Branstetter, Stranch & Jennings, PLLC, 227 Second Avenue North, Nashville, Tennessee 37201.

DEFINITIONS AND INSTRUCTIONS

The definitions set forth in Massachusetts Local Rule of Court 26.5 are incorporated herein by reference.

To the extent that your response to any request requires the production of Personal Health Information as that term is used in HIPAA, please produce such responsive information to Eric Schwarz, Vice President Rust Consulting/Omni Bankruptcy, 5955 Desoto Avenue, Suite 100, Woodland Hills, CA

91367, Telephone: 818-906-8300, ext. 113, eric@omnimgt.com as required by the Court's Qualified Protective Order, Dkt. No. 192. All other documents or information should be produced as indicated above.

INTERROGATORIES

1. For each patient named in Exhibit A to Tennessee Defendants' Memorandum of Law in Support of Motion to Dismiss (Dkt. No. 898-1) (attached as Exhibit A) who you contend provided a non-compliant HIPAA release, identify every individual, entity and/or health care provider to whom you sent a medical authorization form requesting medical records and state the date(s) each authorization was sent. This interrogatory may be answered pursuant to Rule 33(d), Fed. R. Civ. Pro.

ANSWER:

2. With respect to any individual, entity or health care provider identified in the preceding interrogatory that responded to your request(s) for medical records, state whether medical records or information were provided. If medical records or information were not provided state the reason(s) given.

ANSWER:

3. To the extent not reflected in the documents produced, state when and how you first became aware that any authorizations for patients named in Exhibit A to Tennessee Defendants' Memorandum of Law in Support of Motion to Dismiss (Dkt. No. 898-1) (Exhibit A), were allegedly deficient. Identify such communications (other than those reflected in documents produced, e.g. oral communications) informing you that the authorizations were deficient.

ANSWER:

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, _____ of Saint Thomas Outpatient Neurosurgical Center, LLC swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

SAINT THOMAS OUTPATIENT NEUROSURGICAL CENTER, LLC

By: _____

Its: _____

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, _____ of Howell Allen Clinic A Professional Corporation swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

HOWELL ALLEN CLINIC A PROFESSIONAL CORPORATION

By: _____

Its: _____

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

JOHN W. CULCLASURE, M.D.

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

DEBRA SCHAMBERG

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, _____ of Specialty Surgery Center swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

SPECIALTY SURGERY CENTER

By: _____

Its: _____

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

KENNETH R. LISTER, M.D.

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

VERIFICATION

STATE OF TENNESSEE)

COUNTY OF _____)

I, _____, _____ of Kenneth R. Lister, M.D., P.C. swear or affirm that the answers to interrogatories contained above are true, complete and accurate. I also understand that it is my duty to promptly notify my attorney should I later learn that any of these answers are incomplete, inaccurate or misleading. I further certify that I have provided my attorneys with all documents requested.

KENNETH R. LISTER, M.D., P.C.

By: _____

Its: _____

Sworn to and subscribed before me this _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. To the extent such documentation has not already been provided, produce each medical authorization form, accompanying correspondence or communication sent to any individual, entity or health care provider requesting medical records for any patient identified in Exhibit A to Tennessee Defendants' Memorandum of Law in Support of Motion to Dismiss (Dkt. No. 898-1) (Exhibit A) who you contend provided a non-compliant HIPAA release.

RESPONSE:

2. Produce the complete response you received from any individual, entity or health care provider identified in response to interrogatory number one.

RESPONSE:

Respectfully submitted,

BRANSTETTER, STRANCH & JENNINGS,
PLLC



Gerard Stranch IV
Benjamin A. Gastel
227 Second Avenue North
Nashville, Tennessee 37201
gerards@branstetterlaw.com
(615) 254-8801

Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I hereby certify that this document was served by hand delivery on the following:

Chris Tardio
Gideon, Cooper & Essary, PLC
315 Deaderick St., Suite 1100
Nashville, TN 37238

All other counsel of record shall be served by electronic mail and/or by placing a copy of this document on the U.S. Legal Support Document Repository established pursuant to the Court's Qualified Protective Order, Dkt. No. 192.

on this 19th day of February, 2014.


Benjamin A. Gastel

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MDL Case Number	Patient	Filing Date	Failed to wait 60 days before filing suit	Failed to provide patient's full name	Failed to give notice to all other health care provider defendants (Barry Cadden, NECC, Ameridose, etc.)	Did not provide HIPAA releases for all notice recipients	HIPAA release does not allow notice recipient to obtain complete medical records	HIPAA release does not describe the medical information to be disclosed	HIPAA release does not identify who may disclose the records	HIPAA release does not identify who may receive the records	HIPAA release does not state the purpose of the disclosure	HIPAA release does not contain an expiration date or termination event	HIPAA release does not have an authorizing signature and/or date	HIPAA release does not have a condition to condition treatment on signing release	HIPAA release does not have a statement regarding health care provider's inability to redisclose information to be redisclosed without HIPAA protection
1:13-cv-12426 (MDL)	Alexander, John	9/9/13		x	x	x	x		x					x	
1:13-cv-12619 (MDL)	Atton, Shenka	9/17/13		x		x	x			x					
1:13-cv-12619 (MDL)	Barger, Vickie	9/17/13	x	x		x	x			x					
1:13-cv-12730 (MDL)	Barnard, Robert	9/23/13	7/19 ok 9/20 not	x	x	x									
1:13-cv-12429 (MDL)	Bequille, Ann	9/9/13			x	x									
1:13-cv-12838 (MDL)	Berry, Fredia	9/23/13	7/19 ok 9/20 not	x	x	x									
1:13-cv-12604 (MDL)	Betlow, Travis	9/17/13		x		x	x			x			x		
1:13-cv-11881 (MDL)	Bland, Carolyn	7/17/13	4/5 ok 7/26 not	y	x								x		
1:13-cv-12604 (MDL)	Branham, Donna	9/17/13		x		x	y			x					
1:13-cv-12804 (MDL)	Bratcher, Ben	9/17/13		x		x	x			x			x		
1:13-cv-12596 (MDL)	Bray, Elizabeth	9/13/13	x	x	x	x									
1:13-cv-12612 (MDL)	Britton, Laure	9/12/13		x	x	x	x								
1:13-cv-12731 (MDL)	Brock, Dennis	9/19/13	y	x	x	x	x								
1:13-cv-12658 (MDL)	Bryant, Margaret	9/19/13			x	x	x								
1:13-cv-12679 (MDL)	Burns, Peggy	9/18/13		x	x	x	x								
1:13-cv-12697 (MDL)	Burns, Ronda	9/18/13		x	x	x	x			x			x		
1:13-cv-12604 (MDL)	Campbell, Barbara	9/17/13		x		x	x			x					
1:13-cv-12238 (MDL)	Carmen, Cindy	8/21/13	x	x	x	x	x		x				x		
1:13-cv-12604 (MDL)	Carroll, Theresa	9/17/13		y		x	x			x					

MDL Case Number	Patient	Filing Date	Failed to wait 60 days before filing suit	Failed to provide patient's full name	Failed to give notice to all other health care providers/defendants (Berry-Cadden, NECC, Ameridose, etc.)	Did not provide HIPAA releases for all notice recipients	HIPAA release does not allow notice recipient to obtain complete medical records	HIPAA release does not describe the medical information to be disclosed	HIPAA release does not identify who may disclose the records	HIPAA release does not identify who may receive the records	HIPAA release does not state the purpose of the disclosure	HIPAA release does not contain an expiration date or termination event	HIPAA release does not have an authorizing signature, and/or date	HIPAA release does not have a condition treatment on signing release	HIPAA release does not have a statement re the potential for information to be redisclosed without HIPAA protection
1:13-cv-12187	Carter, Wilma	12/17/13		x	x	x	No HIPAA	x	x	x	x	x	x	x	x
1:13-cv-12591 (MDL)	Chambers, Kathy	9/16/13		x	x	x	x								
1:13-cv-12604 (MDL)	Coleman, Billy Joe	9/17/13			x	x				x			x		
1:13-cv-12560 (MDL)	Collins, Judy	9/13/13	x	x	x	x									
1:13-cv-12918 (MDL)	Cox, Wanda	9/9/13			x	x	No HIPAA	x	x	x	x	x	x	x	x
1:13-cv-12426 (MDL)	David, Thomas Randy	9/6/13	7/3 ok 8/16 not		x	x	x			x					
1:13-cv-12840 (MDL)	Dempsey, Jerry	9/26/13		x	x	x	timeframe								
1:13-cv-12729 (MDL)	Denzin, Bobbie	9/20/13	x (current counsel did not provide 60 day notice)		x	x									
1:13-cv-12841 (MDL)	Deol, Amriti	9/30/13			x	x									
1:13-cv-12667 (MDL)	Deviste, Wilma Mae	9/20/13			x	x							x	x	x
1:13-cv-12490 (MDL)	Dingess, Wanda	9/9/13			x	x	No HIPAA	x	x	x	x	x	x	x	x
1:13-cv-12589 (MDL)	Egglesston, Sue	9/16/13		x	x	x	x			x					
1:13-cv-12619 (MDL)	Ellis, Claudie	9/17/13	x			x	x			x			x		x
1:13-cv-12604 (MDL)	Evans, Danny	9/17/13		x		x	x	x		x			x		
1:13-cv-12571 (MDL)	Ferguson, Rosemary	9/17/13		x		x	x	x		x			x		

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MDL Case Number	Patient	Filing Date	Failed to wait 60 days before filing suit	Failed to provide patient's full name	Failed to give notice to all other health care provider defendants (Barry Cadden, NECC, Ameridose, etc.)	Did not provide HIPAA releases for all notice recipients	HIPAA release does not allow notice recipient to obtain complete medical records	HIPAA release does not describe the medical information to be disclosed	HIPAA release does not identify who may disclose the records	HIPAA release does not identify who may receive the records	HIPAA release does not state the purpose of the disclosure	HIPAA release does not contain an expiration date or termination event	HIPAA release does not have an authorizing signature and/or date	HIPAA release does not have statement regarding health care provider's inability to condition treatment on signing release	HIPAA release does not have statement re the potential for information to be redacted without HIPAA protection
1:13-cv-12815 (MDL)	Johnson, John	9/30/13	x	x	x	x	x can only disclose to Plaintiff's law firm no NOI (or current law firm)								
1:13-cv-12821 (MDL)	Johnson, William	9/13/13		x	x	x	x								
1:13-cv-12819 (MDL)	Jones, John	9/17/13	x	x		x	x		x						
1:13-cv-12804 (MDL)	Jordan, Dorris	9/17/13				x	x		x			x			
1:13-cv-13120 (MDL)	Jude, Kenneth	11/14/13		x	x	x	x	x							
1:13-cv-12898 (MDL)	Keyes, Edna	10/21/13	x	x	x	x	x No NOI	x	x	x	x	x	x	x	
1:13-cv-12571 (MDL)	Kinsey, Jon	9/17/13	7/1 ok 8/14 not	x		x	x			x			x		
1:13-cv-12592 (MDL)	Kirby, Kelly	9/18/13		x	x	x	x								
1:13-cv-12431 (MDL)	Kirkwood, Joshua	9/5/13			x	x									
1:13-cv-12563 (MDL)	Knight, Betty	9/13/13		x	x	x	x								
1:13-cv-12576 (MDL)	Knobilla, James	9/13/13			x	x									
1:13-cv-12590 (MDL)	Koehne, Carol	9/16/13		x	x	x	x								
1:13-cv-12571 (MDL)	Lankford, Charles	9/17/13		x		x	x		x			x		x	
1:13-cv-12814 (MDL)	Lapitska, William	9/27/13	x	x	x	x	x								
1:13-cv-12817 (MDL)	Lennberg, Sandra	9/12/13		x	x	x	x								
1:13-cv-12572 (MDL)	Lodowski, Patricia	9/13/13		x	x	x	x								

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1:13-cv-12772 (MDL)	Leveloce, Eddie	9/12/13		x	x	x	x								
1:13-cv-12619 (MDL)	Meddon, Lisa	9/17/13	x	x			x	x			x				
1:13-cv-12624 (MDL)	Martin, Mary	9/11/13			x	x									
1:13-cv-12674 (MDL)	Melhias, Herman	9/18/13		x	x	x	x								
1:13-cv-12619 (MDL)	May, Angela Marie	9/17/13				x	x				x				
1:13-cv-12234 (MDL)	May, Frederick	8/21/13			x	x									
1:13-cv-12610 (MDL)	McDulloch, Patricia	9/16/13		x	x	x	x								
1:13-cv-12742 (MDL)	McDonald, Donald	9/20/13		x	x	x	x		x	x					
1:13-cv-12625 (MDL)	McElwee, Basil	9/13/13		x	x	x									
1:13-cv-12779 (MDL)	McKee, Mary	9/16/13		x	x	x	x								
1:13-cv-12602 (MDL)	McKinney, Joyce	9/20/13		x	x	x	x				x				
1:13-cv-12619 (MDL)	McWhinney, Orville Wayne	9/17/13	x			x	x				x				
1:13-cv-12616 (MDL)	Meeker, Mary Lou	9/16/13		x	x	x	x								
1:13-cv-12604 (MDL)	Miller, Melanie	9/17/13		x		x	x			x			x		
1:13-cv-12570 (MDL)	Miller, Stella	9/16/13		x	x	x	x								
1:13-cv-12836 (MDL)	Miner, Michelle	9/27/13	x	x	x	x	x	x							
1:13-cv-12619 (MDL)	Morris, Anthony Clay	9/17/13	x			x	x			x					
1:13-cv-12736 (MDL)	Morris, Esolene	9/16/13			x	x							x		
1:13-cv-12604 (MDL)	Naseef, Dorothy	9/17/13		x		x	x	x		x					

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MDL Case Number	Patient	Filing Date	Failed to wait 60 days before filing suit	Failed to provide patient's full name	Failed to give notice to all other health care provider defendants (Berry Cadden, NECC, Ameridose, etc.)	Did not provide HIPAA releases for all notice recipients	HIPAA release does not allow notice recipient to obtain complete medical records	HIPAA release does not describe the medical information to be disclosed	HIPAA release does not identify who may disclose the records	HIPAA release does not identify who may receive the records	HIPAA release does not state the purpose of the disclosure	HIPAA release does not contain an expiration date or termination event	HIPAA release does not have an authorizing signature and/or date	HIPAA release does not have a statement regarding health care provider's inability to condition treatment on signing release
1:13-cv-12491 (MDL)	Keelton, Dallas	9/9/13	x		x	x	x		x				x	
1:13-cv-12842 (MDL)	Neely, Virginia	10/3/13			x	x	x							
1:13-cv-12606 (MDL)	Noble, Janal	9/16/13		x	x	x	x						x	x
1:13-cv-12682 (MDL)	Norris, Jocelyn	9/23/13	x	x	x	x	No NOI	x	x	x	x	x	x	x
1:13-cv-12430 (MDL)	Nowood, Marjorie	9/10/13	x	x	x	x	No NOI	x	x	x	x	x	x	x
1:13-cv-12750 (MDL)	O'Bryan, Dennis	9/12/13	x		x	x								
1:13-cv-12730 (MDL)	Odebrecht, Clark	9/24/13			x	x								
1:13-cv-12688 (MDL)	Palmier, James	9/23/13			x	x								
1:13-cv-12433 (MDL)	Parmian, Mass	9/6/13			x	x								
3:13-cv-01418 (MDTN)	Patel, Gokulbhai Maganbhai	12/17/13			x	x	x Can only disclose to Plaintiff's law firm		x	x		x		
1:13-cv-12843 (MDL)	Perry, Joan	9/27/13	x	x	x	x	x						x	x
1:13-cv-12816 (MDL)	Pellicozzi, Joseph	9/30/13			x	x								
1:13-cv-12780 (MDL)	Peltora, Paul	9/16/13		x	x	x	x						x	
1:13-cv-12604 (MDL)	Pierce, Ken (Larry)	9/17/13		x		x	x			x				
1:13-cv-12733 (MDL)	Pierce, Terry	9/20/13	7/19 ok 9/20 not	x	x	x								
3:14-cv-00025 (MDTN)	Potts, Karen	1/6/14		x	x	x	x							
1:13-cv-12573 (MDL)	Pruett, Elizabeth	9/17/13		x	x	x	x							
1:13-cv-12776 (MDL)	Reglanc, JW	9/12/13		x	x	x	x							

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1:13-cv-12686 (MDL)	Redekopp, Ellis	9/10/13	x	x	x	x	x							
1:13-cv-12565 (MDL)	Reed, Diane	9/12/13			x	x								
1:13-cv-12917 (MDL)	Reed, Wanda	9/9/13		x	x	x	No HIPAA	x	x	x	x	x	x	x
1:13-cv-12740 (MDL)	Rhind, Janice	9/10/13		x	x	x	x							
1:13-cv-12603 (MDL)	Richards, Kevin	9/10/13			x	x								
1:13-cv-12613 (MDL)	Richroll, Reba	9/13/13			x	x	x	x						
1:13-cv-12870 (MDL)	Ruth, Annette	9/12/13		x	x	x	x							
1:13-cv-12794 (MDL)	Russell, Janet	9/17/13		x	x	x	x							
1:13-cv-12818 (MDL)	Rybicki, Thomas	9/12/13		x	x	x	x							
1:13-cv-12283 (MDL)	Savercoll, Shiley	9/13/13	x	x	x	x								
3:13-cv-01452 (MDTN)	Sawyers, John	12/26/13				x	x	x						x
1:13-cv-12311 (MDL)	Schilla, Martha	9/20/13	x		x	x	x							
1:13-cv-12570 (MDL)	Scoll, Jimmy M	9/16/13		x	x	x	x							
3:13-cv-00706-CLC-CCS (EDTN)	Selber, Tessa	12/2/13		x	x	x	No HIPAA	x	x	x	x	x	x	x
1:13-cv-12620 (MDL)	Selent, Harold	9/13/13			x	x	x							
1:13-cv-12559 (MDL)	Sellie, Mervell	9/16/13		x	x	x	x							
1:13-cv-12577 (MDL)	Shatler, Lewis	9/13/13			x	x	x	x						
1:13-cv-12489 (MDL)	Silas, Tracy (aka Privett)	10/7/13	x		x	x	x			x	x	x		
1:13-cv-12575 (MDL)	Skeelon, Roba Mae	9/16/13		x	x	x	x							